IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.93 OF 2005

Indrakali Budhiram Jayaswal ...Applicant

V/s.

The State of Maharashtra & Ors. ...Respondents

Shri. M.R. Deshpande for the Applicant.
Ms. M.H. Mhatre A.P.P. for the Respondent No.1.

CORAM : A.S. OKA, J.
DATED : JULY 04, 2005.

P.C.:

1. Heard learned Advocate appearing for the Applicant. The Respondent No.2 has been acquitted of the offences punishable under sections 376, 417 and 323 of the Indian Penal Code. The Applicant is the prosecutrix. While acquitting the Respondent No.2, the learned Additional Sessions Judge has observed thus:

> 10. The prosecutrix made statement that the accused had sexual relations with her for one year. When she was residing separate from her husband after he divorced her. According to her he promised her to marry. He is a married person. She too was married. She allowed him to have sexual relationship. In fact there is no reason to see the statement about having such relationship with suspicion. It was with consent, and she was willing party. Therefore, the intercourse if any for one year would not be rape.
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> 11. Considering the circumstances referred about it can not be inferred that she was induced by him by giving false promise and relying on it, she allowed him to have such relationship. She did not say so. The complainant is also silent on the point

that it was the promise of marriage given by him which worked and propelled her to consent. So, charge of cheating also fails.

12. There is no sufficient evidence that he voluntarily caused hurt by beating her so no offence under Section 323 of Indian Penal Code is made out.

2. In view of what is held by the learned Trial Judge, no case is made out for interference. Criminal Revision Application is therefore, dismissed.

JUDGE